

CITY OF TORRINGTON
INLAND WETLANDS COMMISSION
MINUTES
August 16, 2016

Present: Jay Bate, Jr., Chairman
Jane Bakker, Secretary/Member
Doris Murphy, Member
William Storti, Member
Jonathan Andrews, Member

Also Present: Rista Malanca, Inland Wetlands Enforcement Officer
Jamie LaMere, Corporation Counsel

Not Present: Christine Altman, Vice Chair
Tom Telman, Member

1. Call To Order:

Chairman Jay Bate called the meeting to order at 7:05 p.m.; Torrington City Hall, Room 218, City Hall Council Chambers, 140 Main Street, Torrington, CT

2. Roll Call and Announcement:

Chairman Bate announced present and serving this evening will be Commissioners Jane Bakker, Doris Murphy, William Storti, Jonathan Andrews and Jay Bate. Also present is Torrington Corporation Counsel Jaime LaMere and Rista Malanca, Inland Wetlands Enforcement Officer

3. Minutes for Approval:

a. 7/19/16

Motion by Ms. Bakker to accept the 7/19/16 minutes, seconded by Ms. Murphy, unanimously carried.

4. Old Business:

none

5. New Business:

none

6. Public Hearing Scheduled for 7:00 p.m., August 16, 2016; City Hall Council Chambers, Room 218, 140 Main Street, Torrington, CT:

- a. Applicant: James Mersfelder, on behalf of Woodridge Lake Sewer District
 Location: Goshen Road (Route 4): Starting at the Goshen/Torrington municipal boundary extending to Riverside Ave
 Proposal: Install a force main pipe along Route 4 from the Town line to Lovers Lane & Replace the existing 8” diameter gravity sewer pipe to a 12” diameter gravity sewer pipe in the same alignment from Lovers Lane to Riverside Ave within the upland review area.

Chairman Bate read the legal notice which was published in the Republican American.

William Storti, Commissioner, stated that his company, Wesson Samson, an engineering firm located in Rocky Hill, has in the past and may be currently doing work with Mr. Dave Prickett’s company. Mr. Storti has not met him or had any experience with him. Mr. Storti’s company is currently under contract with the City of Torrington to construct an infiltration/removal project that will start soon, and that will be directly with the WPCA. He does not stand any personal or financial gain from having these relationships. Mr. Storti said his experience in this field is advantageous to the Commission.

Chris Smith, Land Use Attorney and Partner at Shipman and Goodwin and he is appearing on behalf of the applicant, Woodridge Lake Sewer District. Mr. Smith verified the public hearing signs were properly posted, and the certificate of mailings/certified mail notices were properly done, and verification provided to the Chairman.

Mr. Smith introduced James Mersfelder, Dave Prickett, Professional Engineer and Jay Sheehan, Engineer, and Michael Klein who is Certified Soil Scientist and Wetlands Soil Scientist. A packet was presented to the Commission with exhibits and maps. Exhibit A is a copy of the application and the cover letter and was presented to the Commission by Mr. Smith. Exhibits B, C, D, E, F, G, H, I, J, K, L, M were presented and explained by Mr. Smith.

James Mersfelder, Vice President and Treasurer of the Woodridge Lake Sewer District appeared, he is also a Board Member of the WLSD.

Mr. Dave Prickett and Mr. Klein gave detailed presentations. (7:20 p.m.) All work occurs within upland review areas. Eight out of ten locations are in the pavement area of Route 4. This is a series of ten days of small construction projects, with pavement repair at the end of each days. Conventional soil and erosion control techniques should be very effective in maintaining the area. This is a project that entails short term disturbance of the pavement areas. No wetlands or watercourse disruptions will incur.

Steve Cerruto, Vice President of Operations of the Torrington Water Company appeared and noted their serviced towns. Mr. Cerruto stated this route passes through their watershed area. Allan Dam is an active reservoir. The engineers have not even taken into consideration this fact. The Water Company was never notified of this project

through their watershed areas. Failure of this pipeline will result in the discharge into their watershed area. Other routes were rejected because of cost. Mr. Cerruto presented a map of their watershed areas, and the potential impact of an accidental discharge.

Copies were distributed to the Commission by Mr. Cerruto. Mr. Cerruto provided details and explanation of the watershed map, pointed to the maps. Attorney Fred Klein and their engineers from Tata and Howard, Steven Rugar and Mark Moran were also present, and will speak later.

Attorney Fred Klein of Pullman and Comley appeared representing the Torrington Water Company (7:47 p.m.) They are not opposed to the project, but they are opposed to the route being taken. WLSA did not consider that almost one mile of the forced sewer main goes through the Water Company's watershed area or the impact of the forced sewer main on this important water source for 40,000 residents. This project threatens the water supply. Correspondence shows that WLSA was not even aware of this watershed area. Concerns to the watershed area were expressed by Attorney Klein.

Steve Rugar and Mark Moran of Tata and Howard appeared. Mr. Rugar is a Professional Engineer, and said Tata and Howard is an experienced firm specializing in water, waste water and environmental issues. He is the head of the Connecticut Office. Details of the watershed area and the impact/concerns of the line on the watershed area were given by Mr. Rugar (8:04 p.m.) He outlined the various questions and information they have requested from WLSA's engineers. Mr. Rugar also identified various sewage line breaks/accidents around the Connecticut area.

Testimony and presentation continued. Mr. Rugar and Mr. Moran, in their professional opinion, stated this proposal provides many risks to the Torrington Water Company, and their water supply sources.

Mr. Bate and posed technical questions, and detailed answers were provided by representatives of the applicant. There are no direct impacts to wetlands. There is one culvert crossing of thirteen feet.

Mr. Bate stated for the record this Commission does not have any jurisdiction over watersheds, and activity many miles away from watersheds has the potential to impact a watershed. Ms. Malanca agreed.

Mr. Prickett described how culverts would be crossed.

Michael Klein, Soil Scientist, spoke and explained the verbal slight of hand by Attorney F.Klein, and this Mr. M. Klein stated there is no activity in a wetlands or a watercourse associated with this project. Watersheds are not a regulated area. Very details designs will be presented for approval.

Mr. Prickett stated the Torrington Engineering Department and the WPCA will be reviewing the plans as well.

Chris Smith noted most of the information requested by representatives of the Water Company are final detailed drawings, which will be reviewed by the City's Engineering Department and WPCA. As a courtesy to the Water Company, we are trying to generate

some of the specific information they have asked for, not the entire pipeline, but for this crossing. There is no reason to hold this up while we get the Water Company the final detailed drawings. (8:45 p.m.)

Ms. Malanca stated there needs to be proof that there will be a reasonably likely negative adverse impact to a watercourse or a wetlands. Not a watershed.

Mr. Bate opened the hearing to the public.

Glenn Royals, Torrington, (8:50 p.m.) spoke and said WP is water protection, and spoke about septic problems around town. Mr. Bate noted the Health Department controls approval of septic systems, not this Commission. He stated one Commission should remove himself from this application. He spoke about other projects around town, not in this vicinity, and various construction problems with plastic. He spoke about economic matters, and Mr. Bate emphasized this Commission has nothing to do with those economic issues, this is the Inland Wetlands Commission.

Pat Modder, licensed septic constructor, lives on Goshen Road and appeared before the Commission. He knows forced main fail, they always do. Everyone in this area has a well, and if the forced main breaks, it will go right into his well. This is a bad idea. He wanted to know if blasting would be done for this construction, and his well could be impacted.

Ms. Malanca stated there will be a public hearing at a City Council meeting in the future, and by jurisdiction, this Commission can only look at wetlands issues.

Mike Banziruk of Torrington appeared and told the Commission what they protect, and asked why this Commission does not protect Watersheds, and who can they go to about watershed protection issues. He said there are other alternatives to this route. Mr. Banziruk voice concerns about mechanical issues with the system, and the potential for failure and undetected leakage. He insisted that the watershed issues be addressed, and he told the Commission to get it done and look at the facts and figures.

Mr. Prickett provided operating pressure statistics.

Attorney F. Klein said there has been much discussion regarding what this Inland Wetlands Commission regulates. He directed attention to the Wetlands Regulations that define watercourses, rivers, streams, brooks, waterways, bodies of water that are natural or artificial which are contained within, border, or flow through upon the town or any portion thereof, and as the Commission goes about consideration of the application, he urged the Commission to look carefully at Section 1.1 of the regulations that talks about inland wetlands and watercourses being an indispensable fragile resource. Mr. F. Klein read that Section of the regulation and asked the Commission to consider the potential this proposed route can have on the watercourse.

Mr. Royals reminded the Commission that WP means watershed protection.

Mr. Bate clarified this Commission does not regulate the approval of septic systems, that is the health department, with the exception of approvals within the regulated area. Ms.

Malanca stated for the record WP is a zone in the Zoning Regulations, and that is regulated by the Planning and Zoning Commission, not the Wetlands Commission.

Mr. Smith respectfully disagreed with Attorney F. Klein regarding jurisdiction, this Commission has no jurisdiction over watersheds. He has sat on Wetlands Commissions for thirteen years. CT law is very clear that when someone files a 2219 Intervening Pleading, it does not expand the jurisdiction of the Commission. He stated various cases. DEEP has signed off on this plan, they are aware of the watershed. More details were given by Mr. Smith stating DEEP has signed off. It does not change the findings or conclusion with this small portion of the watershed. If the opposers want, they should take these issues to another party, not this Wetlands Commission, but they are trying to short circuit this proposal by coming to this Commission.

More details of the expert testimony were given. Mr. M. Klein is the only wetlands scientist in the room not, and he is the expert. There is a lot of speculation going on, and speculation does not cut it. Identification and quantification is needed, along with a wetlands scientist and data to prove adverse impact.

Mr. Smith stated Mr. F. Klein has not met their burden of proving potential adverse. DEEP has signed off on this plan, and they do not have a problem with it. Department of Public Health has a letter dated yesterday with a lot of generalities. Mr. Jay Sheehan of Woodran and Curran, Senior Vice President and Mr. Sheehan, engineer, for more than 20 years, and Dave Prickett all spoke and stated they have followed all industry standards and gave further details. Mr. Sheehan stated the original plan was to keep all wastewater in Goshen and treat it there, and that plan was rejected by DEEP, and is required by DEEP, and this is not a choice made by WLSA.

Mr. Smith then asked Mr. Sheehan, if he could make a statement as to whether, in his professional opinion, he believed the conduct associated with this proposal has a reasonable likelihood of resulting in the adverse impact, unreasonable pollution, impairment, or destruction of the air, water, or other natural resources of the State of Connecticut. This is a standard system. Mr. Sheehan stated that he did not believe it would.

Mr. Smith then asked Mr. Prickett if he too could make a statement as to whether, in his professional opinion, he believed the conduct associated with this proposal has a reasonable likelihood of resulting in the unreasonable pollution, impairment, or destruction of the air, water, or other natural resources of the State of Connecticut. Mr. Prickett stated he did not believe it would.

Mr. Smith then asked Mr. M. Klein if he too could make a statement as to whether, in his professional opinion, he believed the conduct associated with this proposal has a reasonable likelihood of resulting in the unreasonable pollution, impairment, or destruction of the air, water, or other natural resources of the State of Connecticut. Mr. Klein stated he did not believe it would.

Mr. Smith made closing statements, and regulated activities are minimal. If someone has issue with the watershed, this is not the Commission for them to raise the watershed issues. Based on the evidence, Mr. Smith respectfully asked the Commission to approve this regulated activity.

Ms. Bakker stated her only concern is where the pipeline crosses the stream that goes to the watershed area. She would like to see the line go around this area, Ms. Murphy agreed.

Mr. Bate asked the applicant to explain the protections that will be provided to protect this particular pipeline area of concern of the crossing. Mr. Smith asked Mr. Dave Prickett to address the concerns of the Commission.

Mr. Prickett of DPC spoke and referenced figure 2 of Exhibit E, and provided technical details of the pipe structure and protections. (9:30 p.m.)

Mr. Bate stated enough information has been provided to the Commission.

MOTION by Ms. Bakker to close the public hearing on the subject proposal, seconded by Mr. Andrews, unanimously carried.

7. Staff Report:

Agent Determinations:

- John Secor, 81 Winesap Run, construct 1 12' x 26' garage in upland review area

Ms. Malanca noted the agent determination.

8. Adjournment:

MOTION by Ms. Bakker to adjourn at 9:35 p.m., seconded by Mr. Storti, unanimously carried.

Land Use Office